

**Amador County Pesticide Use Enforcement Work Plan  
2006/2007, 2007/2008, 2008/2009**

**County Resources**

- Deputy—60% of time in PUE
- All staff have vehicles for exclusive use
- Each vehicle has radio contact with office and other staff in the field
- All staff have computer workstations for issuing restricted materials permits and operator ID numbers, each with access to internet and email
- Two workstations are compatible with Arcview 9.0 and are used for GIS mapping
- Expected staff reduction from last FY of 50% due to one permanent trained staff person retirement
- To effectively accomplish core enforcement program workload requires another staff person 50% of time in PUE
- One additional staff person hired to perform PUE as yet untrained
- Anticipate a two to three year training period for new staff
- Expected program change of 50% reduction in surveillance/non targeted use monitoring inspections

**A. Restricted Materials Permitting**

**Permit Evaluation**

- Approximately 75 restricted materials permits issued annually
- Majority of permits are issued for phenoxy herbicides, paraquat, strychnine, and aluminum phosphide
- Permits are only approved and issued by one licensed staff
  - Deputy-25% of job duties
- For new permits initial contact by phone or in person to prescreen for hazards necessitating denials
- Permit approved through verification of having passed private or qualified applicator certification exam
- County administers private applicator certification exam on an individual basis
- Appointment is required for permit issuance and certification exam
- Permit issuance takes approximately one hour
- Testing takes approximately one hour
- During issuance we conduct review of adjacent and surrounding properties based on the following to determine potential adverse environmental impact or health effects:
  - Maps submitted by the applicant
  - Discussion with the applicant
  - Knowledge of the local area
- Permits are denied or conditioned recognizing and utilizing appropriate mitigation measures

- If a permit is denied the applicant will be given due process in the form of a notice and an opportunity to be heard
- Permits are entered into the RMPP, never issued on PR ENF-125, and printed out for signature
- Permits are issued to operator of property or authorized representative (either an employee, farm management firm or PCA), non-ag permits are issued to PCB
- Letter of authorization required for issuance or signature of other than operator of property
- Permits are valid for one year, expiring at the end of the calendar year (December 31) in which they are issued
- All agricultural permits are site specific and maps are required
- Sites are identified by a three digit alpha numeric system, typically the letter identified with a map and the number identified with a location or commodity within map
- Homes, wells, adjacent environment, and sensitive areas are identified on maps
- Handouts reviewed with permittee at time of issuance:
  - In house pesticide use requirements
  - DPR pesticide use requirements PR-ENF-116
  - PUR form and instructions
  - Restricted material permit conditions
  - Notice of intent log and instructions
  - California restricted materials list
  - In house WPS highlights brochure
  - In house handler training brochure
  - In house fieldworker training brochure
  - Application specific information requirements
  - PSIS A or N 1-11
- For permit amendments, a notation is made on the permit for small changes, while larger, more significant changes require the permittee to sign and date the amendment
- Permit/certification renewals usually occur after county sponsored continuing education opportunity/training offered in December
- Four scheduled CE/training sessions
- For renewals, prior year permit files are reviewed for PURs and inspections to determine any potential problem areas
- Approximately 75 NOIs are received a year
- 24 hour NOIs are required
- NOIs are accepted by telephone to the main telephone line, fax, or in person and are monitored between 8 am-5 pm, Mondays -Fridays
- After hours the NOIs are picked up by answering machine. No NOIs are picked up by staff on weekends
- The secretary transcribes NOIs to an in house log that is kept in a file in the office
- Licensed staff review NOI log periodically to assure consistency with permit and contains required information

### Strengths

- Staff experience and knowledge of local conditions helps to reduce substantial adverse environmental impacts
- Currently there is a low level of ag-urban interface issues
- Very low level of cropping pattern problems
- Historically there have been few to no instances of permit denials due to potential adverse environmental impacts
- Issuance of one year permits even for permanent crops allows for regular review of permits, reducing chances for potential adverse impacts
- Specific permit conditions are generally never required due to the cropping patterns and types of restricted materials used
- 60% of the agricultural permit sites have been GPS mapped and new permit maps with aerial photography and identified sensitive sites and wells have been prepared for the permits
- Aerial photographs are current as of 2005
- Permits that included restricted material use pesticides that have not been used in the last five years were reviewed with permittees during 2006 permit renewal season and will continue to be reviewed to eliminate these pesticides from the permits

#### Weaknesses

- Staff has limited knowledge about specific pesticides, their labeled uses, and mode of action
- Approximately 40% of the current agricultural permit maps are still hand drawn and not to scale
- Some sites that are issued the same site number are not contiguous and this makes it difficult to address adjacent property environmental concerns accurately
- Many NOIs are not submitted 24 hours prior to application making it difficult to conduct review of NOI prior to application

#### Goal or Objective

- Assure that the evaluation process for restricted material permit applications and NOIs are complete and thorough, taking into consideration all aspects of risk assessment through the use of updates and improvements to permit information necessary to make sound determinations on adverse effects.
- Improve the restricted materials permit application process where necessary to insure the safe use of the pesticide and protect the environment.

#### Deliverables

- Continue to update all existing restricted material maps in a timely manner, with new field GPS'd or digitized sites overlaid with aerial photography to assist in accuracy when evaluating permits for adverse environmental and health effects. Continue to identify sensitive area and wells on map.

- Review county GIS parcel data and aerial photographs prior to issuing new restricted material permits to assess potential adverse effects.
- Evaluate 100% of restricted material permits where adjoining site conditions have changed for potential adverse environmental impacts.
- Approve, deny, and condition permit as necessary. Ensure due process.
- Evaluate existing sites that are not contiguous having the same site number and amend permits to follow established guidelines for site definitions.
- Use the pesticide pre-application site inspection, compliance actions and NOI denials to increase compliance with 24 hour NOI permit requirement.
- Review and amend permit conditions to be pesticide specific and site specific

#### Measure Success

- Review all restricted material permit files for the following corrective actions:
  - Site specific color GIS and aerial photo maps
  - Site identification that meet site definition guidelines
  - Elimination of pesticides not used for the last 5 years
- Identify number of permits lacking corrections
- Review of NOI log to determine if:
  - Increase in timely reviews of NOIs by staff occurred
  - Reduction in number of non-compliances for 24 hour NOI requirement
- Review of occurrence of adverse incidents where we had a high degree of control based on corrections implemented to permit and NOI review process

#### Site Monitoring Plan Development

- Approximately 500 annual sites
- Majority of NOIs are for the following restricted materials/crops:
  - Phenoxy herbicides for forest, received during April and May
  - Phenoxy herbicides for forage crops, received during January through March
  - Paraquat for wine grapes, received during January through March
  - Aluminum phosphide and strychnine for wine grapes, received May to October
  - Vikane for structural fumigations, less than 10 per year
- NOIs are reviewed by one licensed staff
  - Deputy – 10% of job duties
- Sites to evaluate are based on:
  - hazard of pesticide use by crop
  - previous denials
  - aerial applications
  - applications near roads and residences
  - environment condition with respect to cropping and fieldwork patterns
  - local conditions
  - employee handlers
  - compliance histories
- Pre-application site inspections are performed as resources allow

- All nonagricultural permits are required to submit an NOI until one inspection has been performed which is usually accomplished when the renewal occurs for an upcoming application

### Strengths

- Staff with many years of experience in county with knowledge of local conditions and cropping patterns
- Few types of restricted materials used on a few crops
- Minimal changes to adjacent environments of sites to be monitored
- Improved NOI logging system with a separate colored sheet that is attached to individual permit and given to staff has allowed for more timely review of NOIs

### Weaknesses

- Failed to account for all reviewed NOIs on PRAMR
- Failed to meet required 5% total NOIs to be monitored one year out of the last three years
- Lack of licensed staff available for site monitoring, time of year for most site monitoring is when licensed staff is out spraying county roads or issuing renewals for permits and operator identification numbers
- Lack of review of recommendations to assist in assessment of notice of intent primarily with regard to pesticide labeling, rates and crops

### Goal or Objective

- Assure that site-monitoring for restricted material use is effective, preventative and comprehensive, taking into consideration the following risk factors:
  - Pesticide hazards associated with
    - phenoxy herbicides
    - paraquat
    - strychnine and zinc phosphide
  - Local conditions
    - new residential developments within the ag-urban interface
  - Cropping and fieldwork patterns
  - Compliance histories
    - employee handlers
    - permittee
    - pest control advisors

### Deliverables

- Record and evaluate all NOI's.
- Each NOI will be reviewed by licensed staff to ensure:

- Valid Restricted Materials Permit for material to be applied to the intended site
- Crop or application site is allowed by label/Section 18/permit conditions
- Method of application is allowed by pesticide label & permit conditions
- Dilution/volume per acre is appropriate
- Material is appropriate for the pest to be controlled
- Surrounding areas will not be adversely impacted by application
- Record all reviewed NOIs on PRAMR
- Pre-application site inspections will be performed on a minimum of 5% of NOIs.
- All NOI's that are denied shall be recorded on a NOI denial form and counted for the PRAMR and filed.
- Requests for recommendations will be increased to better evaluate risks associated with proposed applications.
- Review the development of buffers around vineyards for use of phenoxy herbicides during March - October

#### Measure Success

- Review of PRAMR to determine if all reviewed NOIs have been accounted for
- Review of PRAMR to determine if required 5% pre-application site inspections were performed
- Review
  - Increase in number of PCA recommendations received and reviewed
  - Decrease in potential or actual risks

## **B. Compliance Monitoring**

### Comprehensive Inspection Plan

- Inspections are performed by one licensed staff
  - Deputy-25% of job duties
- Inspections are performed between 8 am-5 pm, Mondays-Fridays
- 60% of inspections are scheduled
  - grower and pest control business headquarter safety and records
  - pre-application site
  - restricted materials
- Majority of scheduled application inspections occur between December and March when weed control takes place for field crops with phenoxy herbicides and for wine grapes with paraquat
- 25% of the inspections are targeted and are concentrated in the major agricultural pesticide application area, the Shenandoah Valley, where wine grapes are grown
- Targeted inspections are prioritized by:
  - Applicator compliance history
  - Employee handlers
  - Environmental concerns
  - Chemical hazards
- 15% of inspections are random in urban areas
  - landscape maintenance
  - structural pest control businesses

### Strengths

- The size and centralized location of the agricultural pesticide application areas allows for an intimate familiarity with pesticide usage and cropping patterns in the county.
- Implementation of a comprehensive GIS site-mapping program.
- Implementation of a non-compliance tracking system utilizing copies of all inspections in permittee file and annual comparison spreadsheet
- A targeted inspection plan that addresses the following components:
  - Violation history
  - Potential for WHS violations
  - Employee handler applications
- Low level of Category I pesticides being handled by employees requiring closed systems
- The frequency of headquarters employee safety inspections is currently every 2-3 years depending on the level of non-compliances. The frequency of dealer inspections is every 1-2 years. This frequency schedule allows for effective identification and enforcement action of non-compliances.

### Weaknesses

- Monitoring currently as resources allows. Availability of trained staff persons to conduct inspections when the majority of restricted material applications are occurring, time of year of these applications coincides with permit renewals which are also the responsibility of the staff person who conducts the inspections.
- Small staff whose duties include other county program support means that no one is available for weekend or night time work when owner operator and reduced drift applications occur
- Low number of follow up inspections due to lack of staff availability

#### Goals or Objectives

- Assure that compliance monitoring is effective and comprehensive, ensuring the safety of pesticide handlers, fieldworkers, the public, and the environment through the use of an inspection strategy that has a measurable effect on compliance improvement.
- Increase compliance with pesticide laws and regulations involving pesticide use within Amador County.

#### Deliverables

- Maintain frequency of inspections for headquarters and dealers
- Maintain targeted inspections for situations where WHS violations have occurred in the past or have the potential to occur
- Increase targeted inspections when necessary for repeat violations.

#### Measuring Success

- Review of PRAMR to determine if there has been a decrease in the number of pesticide use and records inspections for targeted components.
- Review of non-compliances as a result of targeted inspections.
- Decrease in non-compliances found.

#### Investigation Response and Reporting Improvement

- Pesticide-related investigations are conducted by one trained staff:
  - Deputy responsible for 100% of investigations, 10% of job duties
- Complaints are received by secretary and recorded on an in-house form
- Once received they are given to Deputy
- All complaints or incidents that may be related to pesticides receive a response and results are documented on complaint forms or investigative reports
- All investigation and complaint reports are reviewed and approved by the Commissioner once complete
- 75% of episode investigations involve use of disinfectants
- In last two fiscal years there have been 4 episode investigations/complaints
- Types of investigations and time it took to complete were:



- One priority, initiated within two days and completed within two weeks
- Three non-priority investigations initiated within three days and completed within two to three weeks, with the exception of receiving analysis samples back from the laboratory for final report.
- All of the investigation reports were complete and none were returned for lack of additional information or supporting documentation

#### Strengths

- Routing of the investigation/complaint goes directly to the Deputy and review and approval goes directly to the Commissioner. Without any intermediate personnel the reports are processed in a timely manner.
- Low number of investigations and complaints received by the county allows for ability to respond and complete investigations and reports in a timely manner.
- Staff has kept current with investigative training.
- Experienced investigator with good writing skills.
- Our investigative response and reporting has resulted in the following:
  - Effective in providing awareness for worker health and safety issues
  - Conclusive in explaining why or how the episode occurred
  - Allowed us to take appropriate enforcement action when causal violations were discovered
  - Allowed us to take preventative measures at the applicator/business/local program level

#### Weaknesses

- No areas of investigation response or reporting were identified as needing improvement based on the last two fiscal year DPR Effectiveness Evaluations.

#### Goal or Objective

- Maintain implementation strategy of current investigative response with regard to timely initiation and completion of all priority and non-priority investigations.
- Maintain implementation strategy of current investigative response with regard to use of existing violation analysis and high quality in investigative thoroughness and report accuracy.

#### Deliverables

- Timely episode investigation initiation and completion
- Investigation reports that are accurate and complete

#### Measure Success

- Review of the number of returned/incomplete investigation reports
- Review reversed decisions by appeals due to lack of supporting information

## **C. Enforcement Response**

### Enforcement Response Evaluation

- All compliance and enforcement actions are prepared by one licensed staff
  - Deputy-25% of job duties
- All actions are discussed with the Commissioner prior to implementation (with the exception of violation notices checked off at the time of inspections on inspection forms)
- All actions are reviewed and signed by Commissioner
- Review of the last five years shows that all enforcement actions commenced within two years of the occurrence of the violation, primarily commencing within two months of violation
- Enforcement Response Policy/Regulation (ERP) is being implemented and followed to determine most appropriate response when violations and civil penalty actions are identified
- Staff has received DPR provided training on ERP implementation
- If the action or fine deviates from the policy/regulation a justification will be written into the action
- No Decision Reports have been necessary in the last five years
- Pesticide use report violations receive warning letters and notice of violations
- Worker health and safety violations receive civil penalty actions, unless first time paperwork violation
- Local worker health and safety violation issues are primarily:
  - Hazard Communication posting
  - Decontamination stations
  - PPE
- All NOPAs provide respondents with detailed information on alleged violations, proposed fine level, and their right for an opportunity to be heard
- A Pesticide Enforcement/Compliance Action Summary is prepared for every action
- All inspections and non-compliances are tracked on an electronic spreadsheet
- All actions are tracked on an electronic log
- Copies of inspection reports and actions are maintained in permit/OID or business files

### Strengths

- Limited chain of command within our office allows for timely review and approval of actions
- Maintaining copies of reports and actions within individual files allows for review of violator's history and selection of most appropriate action for the violation.

### Weaknesses

- More civil penalty actions are resulting from the implementation of ERP and as a result we are experiencing more administrative hearings. Increase in hearings is increasing the time that must be expended by staff for each enforcement action.
- Lack of staff availability for timely follow-up inspection activity

#### Goal or Objective

- Provide a swift, consistent and fair response to non-compliances that results in future compliance by the respondent while working to maintain the respect of the regulated industry as well as maintaining the integrity of this office.

#### Deliverables

- Review of Worker Health and Safety regulations annually at grower meetings
- Timely initiation of enforcement response
- Consideration of all appropriate enforcement options
  - Application of Enforcement Response Policy/Regulation
  - Use of Citable Sections as resource
  - Application of the Fine Guidelines
- Review of proposed enforcement action with EBL to ensure correct of application of ERP
- Enforcement response log updated as actions are completed

#### Measure Success

- Review of individual files to verify if decrease in repeat non-compliances by violators resulted from new enforcement response.
- Review of enforcement response to determine if effort was directed at violations that pose the greatest risk to people or the environment.